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7 *Attorneys for Defendant WELLS FARGO BANK, N.A., dba*
8 *AMERICA'S SERVICING COMPANY (erroneously sued as Wells*
Fargo dba America's Servicing Company)

9 IN THE UNITED STATES DISTRICT COURT
10
11 DISTRICT OF NEVADA

12 DENISE FULEIHAN, an Individual,

CASE NO.

13 Plaintiffs,

14 vs.

PETITION FOR REMOVAL OF
ACTION UNDER 28 U.S.C. § 1331
(FEDERAL QUESTION) AND § 1441
(DIVERSITY)

15 WELLS FARGO dba AMERICA'S
16 SERVICING COMPANY, a foreign
corporation, FREEMONT INVESTMENT
17 AND LOAN, a foreign corporation, and
DOES 1-5, inclusive, ROES I-V, inclusive,

18 Defendants.

20 TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

21 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §1331, 1441 and 1446, Defendant,
22 WELLS FARGO BANK, N.A., dba America's Servicing Company (*erroneously sued as Wells*
Fargo dba America's Servicing Company), hereby removes to this Court the state court action
described below.

25 I. Summary of Pleadings

26 On or about August 26, 2009, an action was commenced in the Eighth Judicial District
27 Court for Clark County, Nevada captioned as above, Case Number A597974, Dept. XXIII. A
28

1 true copy of the Complaint is attached as Exhibit A. Plaintiffs similarly filed a Notice of
 2 Pendency of action on August 26, 2009. A true and correct copy of which is attached hereto as
 3 Exhibit B. No other pleadings have been filed in the Action.

4 **II. Statement of Jurisdiction**

5 This Court has original jurisdiction of the Action pursuant to 28 U.S.C. § 1331 in that it
 6 involves matters arising under federal acts, including the Real Estate Settlement Procedures Act
 7 (12 U.S.C. §2605) (Compl. ¶¶ 12-17.) and Truth in Lending Act (15 U.S.C. §§ 1601, et seq.)
 8 (“TILA”) (Compl. ¶¶ 18-24.).

9 In addition, Defendant is entitled to remove this action to this Court pursuant to the
 10 provisions of 28 U.S.C. § 1441 on the grounds that this Court has original jurisdiction under 28
 11 U.S.C. § 1332 because it is a civil action between citizens of different states and the amount in
 12 controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

13 **A. Complete Diversity Exists**

14 Plaintiff alleges that they are residents of Nevada. (Compl. ¶ 1).

15 Defendant Wells Fargo is a national bank. For diversity jurisdiction purposes, a national
 16 bank is a citizen of the state designated as its main office on its organization certificate.
 17 Wachovia Bank, N.A. v. Schmidt, 546 U.S. 303, 306 (2006). Accordingly, Wells Fargo is a
 18 citizen of South Dakota – the state listed on Wells Fargo’s organization certificate.

19 Freemont Investment and Loan is and was at the time this action was commenced a
 20 corporation incorporated in the State of California with its principal place of business in that
 21 State. Upon the information and belief, no other defendant is a citizen of Nevada. Because
 22 Plaintiff is a citizen of Nevada and no Defendant is a citizen of Nevada, complete diversity of the
 23 parties exists.

24 **B. The Amount in Controversy Requirement is Satisfied**

25 The Action satisfies the amount in controversy requirement under 28 U.S.C. § 1332.
 26 Plaintiff asserts rights to real property and seeks to enjoin a pending foreclosure. (Compl. ¶¶ 30-
 27 31). The real property at issue in this Action was purchased for \$532,220 in March 2001 as
 28 indicated by title information made available on the Clark County Assessor’s website, a true and

correct screen shot dated September 24, 2009 is attached as Exhibit C. Accordingly, the value of the contract exceeds \$75,000, satisfying the amount in controversy requirement.

III. Conclusion

Because Wells Fargo has timely filed a notice of removal of an action for which this Court has original jurisdiction both because it involves a federal question, and based on diversity of the parties and satisfaction of the amount in controversy requirement, the Action must be removed to this Court.

Wells Fargo will also timely file a Notice of Removed Action in the Eighth Judicial District Court, Clark County, Nevada, a true and correct copy of which is attached as Exhibit D.

Dated: September 24, 2009

SNELL & WILMER L.L.P.

By: /s/ Cynthia A. LeVasseur
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(erroneously sued as Wells Fargo dba America's
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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **PETITION FOR REMOVAL OF ACTION** by the method indicated:

X U. S. Mail
 U.S. Certified Mail
 Facsimile Transmission
 Overnight Mail
 Federal Express
 Hand Delivery

and addressed to the following:

James R. Stout, Esq.
Stout Law Firm
4560 S. Decatur, Suite 201
Las Vegas, Nevada 89103
Attorney for Plaintiff

DATED this 24th day of September, 2009.

/s/ 
An employee of Snell & Wilmer L.L.P.